

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ARCH COAL, INC. et al.,

Plaintiffs,

vs.

FEDERAL INSURANCE COMPANY,

Defendant.

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Case No. 4:05CV00712 ERW

MEMORANDUM AND ORDER

This matter comes before the Court upon Plaintiffs' Motion to Compel Discovery [doc. #38] and Defendant's Motion to Compel Discovery [doc. #40].

In their Motion to Compel, Plaintiffs request that the Court order Defendant to produce a certain insurance claim file in response to a request for production. In its Response to Plaintiffs' Motion to Compel, Defendant indicates that it has now produced the requested documents along with an appropriate privilege log. In their Reply, Plaintiffs indicate that they have received some documents and a privilege log in response to the request for production, but have not had the opportunity to confer with counsel regarding a certain discrepancy found therein. Because it appears that Plaintiffs' request is moot, the Court will deny as moot Plaintiff's Motion to Compel. However, because subsequent conferral with counsel may bring forth further issues which will require this Court's intervention, Plaintiffs will be given leave to refile their Motion to Compel at a later time, if necessary.

In its Motion to Compel, Defendant states that Plaintiff has not provided appropriate responses to certain written discovery requests. As Plaintiffs point out, Defendant's Motion to

Compel is deficient because it fails to comply with Federal Rule of Civil Procedure 37(a)(2)(B)¹ and Local Rule 3.04(a).² Therefore, the Court will strike Defendant's Motion to Compel for failure to comply with applicable procedural rules.

Finally, Plaintiffs' Motion for Leave to File Second Amended Complaint [doc. #43] remains pending at this time.

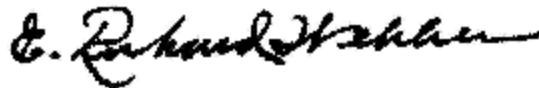
Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Motion to Compel Discovery [doc. #38] is **DENIED as moot**, with leave to refile at a later time, if necessary.

IT IS FURTHER ORDERED that Defendant's Motion to Compel Discovery [doc. #40] is **STRICKEN** for failure to comply with Federal Rule of Civil Procedure 37(a)(2)(B) and Local Rule 3.04(a).

IT IS FURTHER ORDERED that the April 21, 2006 hearing in this matter is **VACATED**.

Dated this 19th day of April, 2006.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE

¹Rule 37(a)(2)(B) states, in part: "The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action."

²Local Rule 3.04(A) states: "The Court will not consider any motion relating to discovery and disclosure unless it contains a statement that movant's counsel has conferred in person or by telephone with the opposing counsel in good faith or has made reasonable efforts to do so, but that after sincere efforts to resolve their dispute, counsel are unable to reach an accord. This statement also shall recite the date, time and manner of such conference, and the names of the individuals participating therein, or shall state with specificity the efforts made to confer with opposing counsel."